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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,578	01/24/2002	Hakan Pettersson	1381-0284P	3991
2292	7590	07/02/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			TRAN, THUY VAN	
			ART UNIT	PAPER NUMBER

3652

DATE MAILED: 07/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/053,578

Applicant(s)

PETTERSSON ET AL.

Examiner

Thuy v. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/180,353.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date May 27, 2004.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION***Continued Examination Under 37 CFR 1.114***

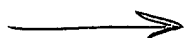
A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 27, 2004 has been entered.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It appears from the preamble that Applicant's intent is to claim "a kit for installing shaft equipment". However, in claim 8, lines 1-3, a positive limitation "wherein the shaft equipment includes at least one elevator rope, .." is recited. Therefore, it is unclear whether Applicant's intent is to claim "a kit for installing shaft equipment" as a sub-combination or "a kit" in combination with "shaft equipment". In

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order to expedite the prosecution, claim 8 will be treated as subcombination and the limitation in claim 8 will be examined as functional recitation.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4, 5, and 7-9 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by JP 5-124778 A (JP '778).

JP '778 discloses a kit for installing shaft equipment for an elevator, the kit comprises a suspension element temporarily attachable to an upper part of a wall of the elevator shaft 1, a suspension means 13 for carrying or supporting shaft equipment at least during installation, the suspension means 13 for being connectable to a hoisting device 12 carrying an elevator car.

Re claims 2 and 5, the kit further comprises a mounting tool 7 (upper most platform)

Re claims 4 and 7, the kit further comprises supporting means 10 for supporting a speed governor by the suspension element.

Claims 1, 2, 4, 5, 7 and 8 (as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Chapelain et al. 5,000,292.

Chapelain discloses a kit for installing shaft equipment, the kit comprises a suspension element 15, a suspension means 35 being connectable to a hoisting device carrying an elevator car, a supporting means 9, 13, 21 and a mounting tool (cabin).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Claims 3, 6 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chapelain et al 5,000,292.

Chapelain discloses all the claimed limitations except for having a mounting tool comprising a bar with one end provided with a device for mounting the suspension means or shaft equipment (as in claims 3 and 6 respectively), and the suspension element includes three separate attachments to the ceiling or upper part of the wall of the elevator shaft of claim 9.

Re claims 3 and 6, it would have been obvious at the time the invention was made to have utilized a bar with one end provided with means for mounting the suspension means or shaft equipment for the installation kit of Chapelain since it is a common knowledge to use a bar with one end provided with a hook for mounting something out of reach.

Re claim 9, Chapelain discloses the suspension element has two attachments instead of three attachments as recited. It would have been obvious to one having ordinary skill in the art at the time the invention was made to add a third attachment to the kit of Chapelain, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '778.

JP'778 discloses all the claimed limitations except for having a mounting tool comprising a bar with one end provided with a device for mounting the suspension means or shaft equipment (as in claims 3 and 6 respectively).

It would have been obvious at the time the invention was made to have utilized a bar with one end provided with means for mounting the suspension means or shaft equipment for the installation kit of Chapelain since it is a common knowledge to use a bar with one end provided with a hook for mounting something out of reach.

Response to Arguments

Applicant's arguments filed May 27, 2004 have been fully considered but they are not persuasive.

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Applicant argues that JP '778 uses a working cage during installation instead of an elevator car as claimed. The elevator car is not positively recited in the claim. Further, as broadly claimed, the working cage is the elevator car.

In response to Applicant's remark about the elevator rope, JP '778 clearly discloses an elevator rope 15.

In response to applicant's argument that while the roof of the elevator in Chapelain is used, but the elevator car is not raised up the shaft in order to enable installation, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., A design wherein equipment can be installed at the top of the shaft and then the elevator hoisted up in order to enable installation of the guide rail) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy v. Tran whose telephone number is 703-308-2558. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TVT (TVT)


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